

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**WORLDVENTURES HOLDINGS, LLC.,
Et al.**

Plaintiffs,

V.

ARIIX, LLC, et al.,

Defendants.

CIVIL ACTION NO. 4:18-CV-393

JUDGE MAZZANT/JUDGE JOHNSON

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Before the Court are the following motions:

(1) The Joint Motion for Stipulated Dismissal with Prejudice filed by Plaintiffs WorldVentures Holdings, LLC and its Affiliates (together, “WorldVentures”) and Defendant Daniel Audet (“Audet”) (Dkt. 422);

(2) The Joint Motion for Stipulated Dismissal with Prejudice filed by WorldVentures and Defendant Anthony Fitzgerald (“Fitzgerald”) (Dkt. 423); and

(3) The Joint Motion for Stipulated Dismissal with Prejudice filed by WorldVentures and Defendant Michelle Siddy (“Siddy”) (Dkt. 424).¹

In the Joint Motions (Dkts. 422, 423, 424), the parties seek to dismiss all claims and counterclaims between them with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), with costs of court, expenses and attorney's fees be taxed against the party incurring same. The Joint Motions (Dkts. 422, 423, 424) have no effect on the claims by Plaintiff

¹ The Court refers to these three pending Joint Motions for Stipulated Dismissal with Prejudice as “the Joint Motions.”

WorldVentures, and its Affiliates, against ARIIX, LLC, ARIIX Holdings, LLC, ARIIX International, Inc., or Jonathon McPhillip.

This case was referred to the undersigned pursuant to 28 U.S.C. § 636, the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, and the applicable Referral Order, for all pretrial proceedings.

Federal Rule of Civil Procedure 41(a)(1) provides that a plaintiff may voluntarily dismiss a party to an action without court order in one of two ways: (1) a plaintiff may dismiss a party to an action under Rule 41(a)(1)(A)(i) by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” FED. R. CIV. P. 41(a)(1); or (2) a plaintiff may dismiss a party to an action under Rule 41(a)(1)(A)(ii) by filing “a stipulation of dismissal signed by all parties who have appeared.” *Id.* As such, formal court action is not necessary in this case. However, the Court finds that in the interest of efficiency, justice, and maintaining the clarity of the record, an entry of order of dismissal with prejudice as to Defendants Audet, Fitzgerald, and Siddy is appropriate.

RECOMMENDATION

For the foregoing reasons, the Court therefore recommends that the relief requested in the Joint Motions (Dkt. 422, 423, 424) be **GRANTED**. The Court further recommends that the parties bear in full their own costs, expenses, and attorneys’ fees incurred in connection with this dismissal. Claims asserted by Plaintiff WorldVentures, and its Affiliates, against the remaining defendants are unaffected by the dismissal of Audet, Fitzgerald, and Siddy.

Within fourteen (14) days after service of the magistrate judge’s report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C).

A party is entitled to a *de novo* review by the district court of the findings and conclusions contained in this report only if specific objections are made, and failure to timely file written objections to any proposed findings, conclusions, and recommendations contained in this report shall bar an aggrieved party from appellate review of those factual findings and legal conclusions accepted by the district court, except on grounds of plain error, provided that the party has been served with notice that such consequences will result from a failure to object. *Id.*; *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

IT IS SO ORDERED.

SIGNED this 30th day of April, 2019.



KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE